

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MONTBLANC-SIMPLO GMBH and
MONTBLANC NORTH AMERICA, LLC,

Plaintiffs,

-against-

ROGER CROMWELL d/b/a PENOPOLY.COM,
JOHN DOES 1-5,

Defendants.

X

INITIAL DISCLOSURE

08 Civ. 3907 (PKC)

Assigned Judge:
Hon. P. Kevin Castel

X

PLEASE TAKE NOTICE that, pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, defendant Roger Cromwell d/b/a Penopoly.com hereby makes the following disclosures:

(I) The name, and if known, the address and telephone number of each individual likely to have discoverable information, along with the subjects of that information, that the disclosing party may use to support its claims or defenses:

(1) Defendant Roger Cromwell: business of Roger Cromwell and Penopoly.com, business of pen etchers/artists Kullock, brokering of pen transaction at issue.

(2) Jose Ariel Kullock: business of pen etching/art, business of Roger Cromwell and Penopoly.com, alteration of Mont Blanc pen at issue, pen transaction at issue: Defensa 1177 Capital Federal, Buenos Aires, Argentina; jaku@speedy.com.ar

(3) Jesy Kullock: business of pen etching/art, business of Roger Cromwell and Penopoly.com, alteration of Mont Blanc pen at issue, pen transaction at issue: Defensa 1177 Capital Federal, Buenos Aires, Argentina; jaku@speedy.com.ar

(II) Description by category and location of all documents, electronically stored information, and tangible things that the disclosing part has in its possession, custody, or control and may use to support its claims or defenses:

(1) Defendant's Customer Lists: possessed in electronic format by defendant on i-mac computer, electronic copy possessed by defendant's counsel.

(2) Defendant's Repair and Sales Records from 2003 through July 2008: possessed in electronic format by defendant on i-mac computer, electronic copy possessed by defendant's counsel.

(3) Defendant's Credit Card Sales Transactions 2007-2008: under control of the defendant, in the process of being requested/received from Merchant Services credit company.

(4) Defendant's Bank Transactions 2007-2008: under control of the defendant, in the process of being requested/received from defendant's bank.

(5) Defendant's E-mail Records Regarding Etched Pens and/or Jesy/Jose Kullock: possessed in electronic format by defendant on i-mac computer, hard copy possessed by defendant's counsel.

(6) Defendant's \$750 Check Paid to Jose Ariel Kullock Regarding Pen at Issue: possessed in electronic format by defendant, printout possessed by defendant's counsel.

(7) Carol Santoni's \$750 Check Paid to Defendant Regarding Pen at Issue: under control of plaintiffs, copy or record under control of the defendant subject to production from defendant's bank.

(III) Computation of each category of damages claimed by the disclosing party:

No damages are claimed by defendant at this time.

(IV) Any insurance agreement under which an insurance business may be liable to satisfy all or any part of a possible judgment or to indemnify defendant:

Defendant is not a party to such insurance agreement.

(V) Amendments:

Defendant reserves the right to supplement, amend, or modify its initial disclosures under FRCP Rule 26.

Dated: August 6, 2008
New Windsor, NY

Rider, Weiner & Frankel, P.C.
Attorneys for Defendant
Roger Cromwell d/b/a Penopoly.com
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By: 
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TO: Milton Springut, Esq.
Tal S. Benschar, Esq.
Kalow & Springut LLP
488 Madison Avenue
New York, New York 10022

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss:
COUNTY OF ORANGE)


Yurmaris Renelt, being duly sworn, says that deponent is not a party to the action; is over the age of 18 years; that on the 6th day of August, 2008 deponent served the within Initial Disclosure upon:

Milton Springut, Esq.
Tal S. Benschar, Esq.
Kalow & Springut LLP
488 Madison Avenue
New York, New York 10022

by depositing the same with an overnight delivery service in a wrapper properly addressed. Said delivery was made prior to the latest time designated by the overnight delivery service for overnight delivery. The address was directed to said attorneys at the above address designated by said attorneys in the last paper served herein. The delivery service used is:


Yurmaris Renelt

Sworn to, before me, this
6th day of August, 2008.


Notary Public

TRACI L. NESTVED
Notary Public, State of New York
Qualified in Orange County
Reg. No. 01NE6023644
Commission Expires April 26, 2011